

## **Article II. Storm Water Management.**

Sec. 19-20. Purpose of article; scope.

The purpose of this Article is to protect, maintain and enhance the public health, safety, and general welfare by establishing minimum requirements and procedures to control the adverse impacts associated with increased stormwater runoff from developed and developing lands. The primary goal of the County is to maintain after development, as nearly as possible, the predevelopment runoff characteristics, and to reduce stream channel erosion, pollution, siltation and sedimentation, and local flooding by implementing environmental site design to the maximum extent practicable and using appropriate structural best management practices only when necessary.

Sec. 19-21. Definitions.

In this Article, the following words and phrases have the following meanings unless the context indicates otherwise:

Administration: The Water Management Administration of the Maryland Department of the Environment.

Agricultural land management practice: Those methods or procedures used in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

Applicant: A landowner, contract purchaser or other person that assumes the legal responsibility for developing land subject to this Article. Note- Model Ord. definition is different

Associated nonresidential property: A nonresidential property from which stormwater drains into a stormwater management facility that primarily serves one or more residential properties.

Best management practice: A structural device or nonstructural practice designed to temporarily store or treat stormwater runoff to mitigate flooding, reduce pollution, recharge groundwater, and provide other amenities related to the management of stormwater runoff.

Board: The County Planning Board.

Channel protection storage volume: The volume used to design structural best management practices to control stream channel erosion.

Commission: The Maryland-National Capital Park and Planning Commission.

Department: The Department of Permitting Services.

Design Manual: The applicable Maryland Stormwater Design Manual which serves as the official guide for stormwater management principles, methods, and practices in Maryland.

Development: A project that consists of subdividing land or adding buildings and other improvements to individual parcels of land.

Director: The Director of the Department of Permitting Services or the Director's designee.

Director of Environmental Protection: The Director of the Department of Environmental Protection, or the designee of the Director of Environmental Protection.

District: The Montgomery Soil Conservation District.

Drainage area: That area that contributes runoff to a single point, measured in a horizontal plane.

Environmental site design or ESD: Using small-scale stormwater management practices, nonstructural techniques, and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of development on water resources.

Methods for designing ESD practices are specified in the Design Manual

Erosion: The process by which the ground surface is worn away by the action of wind, water, ice, or gravity.

Executive: The County Executive or the County Executive's designee.

Extreme flood volume: The storage volume required to control the infrequent but large storm events during which overbank flows reach or exceed the boundaries of the 100-year floodplain.

Functional master plan: A master plan for conserving and managing a watershed.

Impervious area: Any surface that prevents or significantly impedes the infiltration of water into the underlying soil, including structures, buildings, patios, decks, sidewalks, compacted gravel, pavement, asphalt, concrete, stone, brick, tile, swimming pools, and artificial turf. Impervious surface also includes all areas used by or for motor vehicles or heavy commercial equipment, regardless of surface type or material, including roads, road shoulders, driveways, and parking areas.

Infiltration: The passage or movement of water into the soil surface.

Maximum extent practicable or MEP: Designing stormwater management systems so that all reasonable opportunities for using environmental site design planning

techniques and treatment practices are exhausted and, only where absolutely necessary, a structural best management practice is implemented.

Non-structural maintenance: Grass cutting; removal of litter and debris, tree limbs, algae and aquatic plants; tree and shrub trimming and removal; maintenance of fences; aesthetic improvements such as graffiti removal, and any other enhancements in and around a stormwater management facility that are not essential for ensuring that the facility continues to function properly.

Off-site stormwater management: The design and construction of a facility to control stormwater runoff from more than one development. An off-site stormwater management facility may be located in a development and would be on-site with respect to that development, but the facility is off-site with respect to all other developments that the facility serves.

On-site stormwater management: The design and construction of stormwater practices to control stormwater runoff in a development.

Overbank flood protection volume: The volume controlled by structural practices to prevent an increase in the frequency of out of bank flooding generated by development.

Person: An individual, corporation, firm, partnership, joint venture, agency, organization, municipal corporation, County or state agency, or any combination of them.

Planning techniques: A combination of strategies employed early in project design to reduce the impact from development and to incorporate natural features into a stormwater management plan.

Preliminary plan: A preliminary plan of subdivision, approved under Chapter 50.

Recharge volume: The portion of the water quality volume used to maintain groundwater recharge rates at a development site.

Redevelopment: Any construction, alteration, or improvement that:

- (a) exceeds or equals 5,000 square feet of land disturbance; and
- (b) is performed on a site where the existing land use is commercial, industrial, institutional, or multifamily residential and existing imperviousness is greater than 40 percent.

Residential property: A property that contains a detached dwelling unit, one or more townhouses, duplexes or other attached dwelling units, or a multi-family dwelling.

Sediment: Soils or other surficial materials transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.

Site: Any tract, lot, or parcel of land, or combination of tracts, lots, or parcels of land, which are under one ownership, or are contiguous and under diverse ownership, where development is performed as part of a unit, subdivision, or project.

Site development plan: The second of three required plan approvals that include information necessary to allow detailed evaluation of a proposed project.

Stabilization: the prevention of soil movement by any of various vegetative or structural means

Stormwater: That precipitation which travels over natural, altered, or impervious surfaces to the nearest stream, channel, conduit, or impoundment and appears in surface waters. Stormwater also includes snow melt.

Stormwater management: The collection, conveyance, storage, treatment, and control of stormwater runoff as needed to reduce accelerated channel erosion, increased flood damages, or water pollution.

Stormwater management facility: An infiltration device, filtering device, stormwater pond, stormwater wetland, hydrodynamic structure, or other best management practice designed and constructed to control stormwater runoff to reduce accelerated stream channel erosion and pollution of surface waters. A stormwater management facility does not include environmental site design practices or any nonstructural stormwater management system.

Stormwater management plan: A set of representations, drawings or other documents, including development phasing statements, which contains all of the information and specifications that the Department requires an applicant to submit in order to obtain a stormwater management approval.

Stormwater management system: Natural areas, environmental site design practices, stormwater management measures, and any structure through which stormwater flows, infiltrates, or discharges from a site.

Structural maintenance: The inspection, construction, reconstruction, modification, repair, and cleaning, of any part of a stormwater management facility undertaken to assure that the facility remains in the proper working condition to serve its intended purpose and prevent failure. Structural maintenance does not include landscaping, grass cutting, or trash removal

Watershed: The total drainage area contributing runoff to a single point.

Watershed management plan: A plan to satisfy the regulatory requirements of the County's National Pollutant Discharge Elimination System permit issued by the Maryland Department of the Environment under the federal Clean Water Act.

Water quality volume: The volume needed to capture and treat 90 percent of the average annual runoff volume at a development site.

Sec. 19-22. Watershed management plans.

(a) The Department of Environmental Protection, in cooperation with the Department, the Board, and other appropriate agencies, may develop watershed management plans to implement stormwater management policies that apply individually to specific watersheds in the County. Each watershed management plan should:

- (1) include detailed hydrologic and hydraulic analyses to determine hydrograph timing;
- (2) evaluate stormwater quantity and quality, and base flow and groundwater management needs;
- (3) include a cumulative impact assessment of watershed development;
- (4) identify existing flooding, receiving stream channel, water quality, biological resources, and habitat conditions;
- (5) specify the types of stormwater management, stream restoration and wetlands protection practices to be implemented;
- (6) identify specific opportunities for stormwater retrofit, stream and wetlands restoration, and groundwater recharge;

(7) specify where the Department may grant waivers of on-site stormwater management controls;

(8) be consistent with the Design Manual's General Performance Standards for Stormwater Management in Maryland; and

(9) be approved by the Administration.

(b) The Board should prepare functional master plans under Article 28 of the Maryland Code to preserve, conserve, and manage natural resources in each of the County's watersheds for the County Council's review and approval. Each functional master plan should address land use, impervious impact on streams and waterways, stream buffers, wildlife and stream habitat, forest preservation, and other issues related to the permitting of stormwater management facilities and the development of watershed management plans.

Sec. 19-23. Review and approval of stormwater management plans.

(a) Concept plan. Before the Board may approve a preliminary plan of subdivision, an applicant must submit a stormwater management and sediment control concept plan to the Department for review and approval. Each concept plan is subject to the following conditions and requirements:

(1) A natural resources inventory must be reviewed and approved by the Department or the Board before the applicant submits a concept plan as required under this Section.

(2) The plan must indicate how the stormwater management and sediment control criteria will be applied to each proposed development or redevelopment project. The Department may require a plan to analyze the downstream effects of any



proposed development or redevelopment project. The design criteria and methodologies used in developing the plan must be consistent with criteria specified in the Design Manual and any other criteria established by regulation. The plan must also describe how environmental site design practices will be implemented to the maximum extent practicable and provide for use of structural best management practices only where the applicant is able to demonstrate to the satisfaction of the Director that environmental site design or other nonstructural best management practices are not a viable option.

(3) Any stormwater management plan must be consistent with any watershed management plan that the Department of Environmental Protection has approved or any flood management plan that the Maryland Department of the Environment has approved involving the site of the proposed development or redevelopment project.

(4) The Department must refer the concept plan to the Department of Environmental Protection, the Department of Transportation, and the Board for comment before approving the plan.

(b) Site development plan. Before the Board may approve a site plan, the applicant must submit a site development site plan to the Department for review and approval. The applicant may combine the site development plans with the concept plans required under subsection (a) if acceptable to the Director. Any site development plan submitted for review and approval must include the following:.

(1) All information provided during the concept plan review phase;

(2) Final site layout, exact impervious area locations and acreages, proposed topography, delineated drainage areas at all points of discharge from the site, and stormwater volume computations for ESD practices and structural measures;

(3) A proposed erosion and sediment control plan that contains the construction sequence, any phasing necessary to limit earth disturbances and impacts to natural resources, and an overlay plan showing the types and locations of ESD and erosion and sediment control practices to be used; and

(4) A narrative that supports the site development design, describes how ESD will be used to meet the minimum control requirements, and justifies any proposed structural stormwater management measure.

(c) Final stormwater management design plan.

(1) Any person required under this Chapter to obtain a sediment control permit must include a final stormwater management design plan as part of the permit application. The final design plan must conform to both the stormwater management concept plan and site development plan and serve as the basis for all later construction. The applicant must submit final stormwater management plans for approval in the form of construction drawings accompanied by a report that includes sufficient information to evaluate the effectiveness of the proposed runoff control design. The applicant must also submit final erosion and sediment control plans in accordance with Section 26.17.01.05 of the Maryland Code of Regulations, as amended.

(2) The maintenance schedule required under this Section must cover the life of any structural stormwater management facility or system of ESD practices and must specify the maintenance to be completed, and the responsible party that will

perform the maintenance. The maintenance schedule must be printed on the approved final stormwater management plan.

(d) Plan preparation. The Director may require the stormwater management concept, site development and final design plans to be prepared by a professional engineer, professional land surveyor, registered architect or landscape architect licensed in Maryland, or any other individual whose qualifications are acceptable to the Department. If a stormwater best management practice requires either a dam safety permit from the Maryland Department of the Environment or a small pond approval from the District, the Director must require the design plan to be prepared by a professional engineer licensed by the State of Maryland.

Sec. 19-24. On-site requirements; County participation; waivers.

(a) On-site stormwater management. A person that receives a sediment control permit must provide on-site stormwater management unless the Director waives this requirement. The Director may waive the on-site stormwater management requirement if the Director finds that stormwater from the site is safely conveyed to a Department approved off-site facility that has been constructed to provide stormwater management for the site or that on-site stormwater management is not required under applicable state law. The use of ESD planning techniques and treatment practices must be exhausted to the maximum extent practicable before any structural best management practice may be implemented. The MEP standard is met when channel stability is maintained, predevelopment groundwater recharge is replicated, nonpoint source pollution is minimized, and structural stormwater management practices are used only if determined to be absolutely necessary .

(b) County participation. If the Director of Environmental Protection finds that additional storage capacity in an on-site facility would correct an existing problem or provide sufficient capacity for future development or redevelopment projects, the County may participate financially in the construction of a stormwater management facility. The amount of participation must be determined by the extent to which the facility exceeds on-site stormwater management requirements.

(c) Waiver.

(1) An applicant seeking a waiver of any on-site stormwater management requirement must submit a request to the Department in writing in a form acceptable to the Director. A request for quantitative stormwater control waivers must contain sufficient descriptions, drawings, and any other information that is necessary to demonstrate that environmental site design has been implemented to the maximum extent practicable. The applicant must submit a separate written request for each later addition, extension, or modification to a development that has received a waiver.

(2) Stormwater management qualitative control waivers apply only to:

(A) In-fill development projects where stormwater management implementation is not feasible;

(B) Redevelopment projects if the applicable requirements of this Article are satisfied; or

(C) Sites where the Department determines that circumstances exist that prevent the reasonable implementation of quality control practices.

(3) The Director may grant a waiver if the applicant shows that existing physical conditions prevent full compliance with any on-site stormwater

management requirement. However, the applicant must still demonstrate that environmental site design has been implemented to the maximum extent practicable.

(4) If a site is an infill development or redevelopment site, the Director may waive channel protection requirements, if:

(A) the planned development or redevelopment project will not increase the impervious surface area on the site; or

(B) runoff from the site will drain through an adequately-sized existing improved storm drain system before discharging into a natural stream channel, without adversely affecting the receiving channel, and the discharge to the storm drain system will not increase erosion in the receiving waters.

(5) The Director must not grant a waiver unless:

(A) the applicant satisfies criteria established by regulation; and

(B) the waiver is consistent with the applicable watershed management plan, if any, prepared by the applicant and approved by the Department of Environmental Protection.

(6) The Director may grant each waiver only on a case-by-case basis. The Director must consider the cumulative effects of all waivers granted in a drainage area or watershed. The waiver must reasonably ensure that the proposed development will not adversely impact stream quality.

(7) When a waiver is granted, the Director must require the applicant to:

(A) provide a monetary contribution;

(B) grant an easement or dedicate land for the County to construct a stormwater management facility; or

(C) take specific stream or wetland restoration measures.

Sec. 19-25. Contributions, dedications, and stream restoration.

(a) Contributions. Each monetary contribution required under Section 19-24 must comply with a fee schedule set by Executive regulation. The County must credit each contribution to a capital improvement program project for planning and implementation of stormwater management and stream or wetland restoration.

(b) Dedications. The County may agree with an applicant to accept an easement or dedicate land to build a stormwater management facility. If the Department consents in writing for a facility to be located on parkland, the Board must also agree before the applicant may dedicate land to build a stormwater management facility.

Sec. 19-26. Stormwater management design criteria.

(a) Unless otherwise indicated, redevelopment is subject to the same requirements that are applicable to new development under this Article.

Each applicant must use planning techniques, nonstructural practices, and design methods to implement environmental site design to the MEP standard. The use of environmental site design must be exhausted before structural best management practices are used. Stormwater management plans must be designed using ESD sizing criteria, recharge volume, water quality volume, and channel protection storage volume sizing criteria according to the Design Manual and any applicable regulation. If the Department finds that historical flooding problems exist at the site of a new development or redevelopment

project, the Director may require the use of overbank flood protection volume, extreme flood volume criteria, or both.

(b) The applicant may use alternative stormwater management measures to satisfy the requirements in subsection (a) if the applicant satisfactorily demonstrates to the Director that impervious area reduction and environmental site design have been implemented to the maximum extent practicable. Alternative stormwater management measures include, but are not limited to:

- (1) An on-site structural best management practice;
- (2) An off-site structural best management practice to provide water quality treatment; or
- (3) A combination of impervious area reduction, environmental site design implementation, and an on-site or off-site structural best management practice within the limit of disturbance.

Sec. 19-27. Financial security.

(a) Required.

(1) Before issuing a sediment control permit for a development which requires a stormwater management facility, the Director must require the applicant or owner to furnish a performance or cash bond, irrevocable letter of credit, certificate of guarantee, or other instrument from a financial institution or issuing person satisfactory to the Director and the County Attorney, for construction of the on-site stormwater management facility in an amount equal to the estimated cost of the construction.

(2) As used in this Article, a certificate of guarantee is an instrument issued by an organization approved by the Director that satisfies the capitalization criteria

and other reasonable criteria established by regulation. The certificate of guarantee must only be issued by the approved organization on behalf of the organization's members in good standing. Only the Director may resolve questions concerning an applicant's eligibility to post a certificate of guarantee.

(3) The bond, letter of credit, certificate of guarantee, or other instrument must be conditioned on the faithful performance of the terms and conditions of an approved stormwater management plan and construction of the facility as provided in that plan and under this Article. The bond, letter of credit, certificate of guarantee, or other instrument must inure to the benefit of the County if the applicant or owner does not comply with the conditions of the bond, letter of credit, certificate of guarantee, or other instrument.

(b) Release.

(1) The Director must not release a bond, letter of credit, certificate of guarantee, or other instrument until the applicant has submitted "as-built" plans and the Department has issued a certification of completion based on the Director's finding, after having performed a final inspection, that the stormwater management facility complies with the approved plan and this Article.

(2) The Department may agree with an applicant regarding the stages of the work to be done on the facility. After completing each stage, the applicant must notify the Department that the applicant is ready for an inspection and, after the Director certifies that the applicant has completed that stage of work under the approved plan and this Article, the Director may reduce the bond, letter of credit, certificate of guarantee, or



other instrument pro rata, or may direct the Director of Finance to refund to the applicant a prorated share of the amount that the applicant deposited with the County.

(c) Revocation of permit. The Director must immediately revoke a building permit if the permittee does not maintain the bond, letter of credit, certificate of guarantee, or other instrument. If the Director finds that an organization issuing certificates of guarantee has violated an applicable law or regulation, the Director may immediately revoke any permit held by that organization's members to which a certificate of guarantee applies.

Sec. 19-28. Inspection and maintenance of stormwater management facilities..

(a) Installation inspections.

(1) The Director, or a person designated by the applicant that is also qualified and approved by the Department to supervise construction, must inspect each best management practice under construction as needed to certify the facility's compliance with approved plans. The inspector must conduct each inspection as provided in a checklist or in any other manner that the Department has approved for each type of stormwater management facility. The inspector must prepare a written inspection report that includes the following information:

(A) the date and location of the inspection;

(B) whether construction complies with the approved stormwater management plan;

(C) any variation from approved construction specifications;

and

(D) any violations of law or regulations that the inspector observes.

(2) The Department must notify the applicant in writing if the inspector observes any violations of this Article during the inspection. The written notice must describe the nature of the violation and prescribe any corrective action needed.

(3) Construction work on a stormwater management facility must not proceed until the Department:

(A) inspects and approves the work previously completed or the plans and certifications previously submitted; and

(B) furnishes the inspection reports to the applicant after each inspection.

(4) All as-built plans submitted to the Department under this subsection must be prepared by a design professional or other person qualified and approved by the Department.

(b) Maintenance of new stormwater management measures.

(1) Before issuing a sediment control permit to develop any property that requires implementation of best management practices, the Department must require the property owner to execute an easement and an inspection and maintenance agreement that is binding on all subsequent owners of the land to be served by any private stormwater management system.

(2) The easement must give the County a perpetual right of access to the stormwater management system at all reasonable times, to inspect, operate, monitor, install, construct, reconstruct, modify, maintain, clean, or repair any part of the

stormwater management system within the area covered by the easement as needed to assure that the system remains in proper working condition under approved design and environmental standards. The inspection and maintenance agreement must require the owner to be responsible for all maintenance of any completed ESD treatment practice and nonstructural maintenance of any on-site stormwater management facility if the development consists of residential property or associated nonresidential property. Otherwise, the inspection and maintenance agreement must require the owner to be responsible for all maintenance of the entire on-site stormwater management system, including but not limited to maintaining in good condition, and promptly repairing and restoring, all ESD practices, grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices in perpetuity.

(3) The owner must record the easement and agreement in the County land records and deliver a certified copy of each recorded document to the Departments of Permitting Services and Environmental Protection before the Department may issue a completion certificate.

(4) After the Department issues a completion certificate for construction of a new stormwater management facility, the County must perform all structural maintenance on the facility if the facility serves residential property or associated nonresidential property. No other person may perform structural maintenance on a stormwater management facility that the County is required to structurally maintain without the County's written consent.

(5) Any repairs or restoration and maintenance performed under this Section must be in accordance with previously approved or newly submitted plans and any reasonable corrective measures specified by the Director of Environmental Protection.

(c) Maintenance of existing stormwater management facilities.

(1) The owner of a stormwater management facility that is not subject to subsection (b) must perform all structural maintenance needed to keep the facility in property working condition. The owner of a residential property or associated nonresidential property, or a homeowners' association that includes the residential property, may execute a stormwater management easement granting the County a perpetual right of access to inspect, operate, monitor, install, construct, reconstruct, modify, maintain, clean, or repair any part of the stormwater management facility within the easement as needed to assure that the facility remains in proper working condition under approved design standards.

(2) If the owner of a stormwater management facility grants a stormwater management easement to the County, the owner must make any structural repairs needed to place the facility in proper working condition, as determined by the Department of Environmental Protection, before the County enters into an inspection and maintenance agreement with the owner that obligates the County to assume responsibility for structural maintenance of the facility. After the owner and the County have agreed that the County will assume responsibility for structural maintenance of the facility, the owner must record in the County land records the easement and any other agreements executed in conjunction with the easement that are binding on later owners of the land.

The owner must deliver a certified copy of each recorded document to the Department of Environmental Protection.

(3) After the Department of Environmental Protection receives a certified copy of the easement and agreements, the County must structurally maintain and inspect the facility as provided in subsection (b).

(d) Maintenance inspections.

(1) The Department of Environmental Protection must ensure preventive maintenance through inspection of all stormwater management systems. The inspection must occur at least once every 3 years.

(2) The owner of any privately maintained stormwater management system must correct the deficiencies discovered during the inspection within the time period specified in any written notice served by the Director of Environmental Protection.

(e) Abandonment instead of repair. If the Director of Environmental Protection finds that the stormwater management facility is no longer needed to control stormwater runoff or that the benefits of a repaired stormwater management facility are not justified by the cost of repair, the owner of the stormwater management facility must abandon the use of the facility for stormwater functions as the Director of Environmental Protection orders. Any order issued under this subsection must not restrict the facility from being used for recreational or other purposes not related to stormwater control.

(f) Nonstructural maintenance of stormwater management facilities. The owner of a stormwater management facility must perform routine inspection and nonstructural maintenance that impacts the effectiveness of routine structural

maintenance, performed either privately or publicly. Among other actions, the owner must:

- (1) prevent the accumulation of solid waste on the property and the generalized growth of weeds or plants in violation of Section 58-3;
- (2) clear any woody vegetation, including trees and brush along with their root systems within 25 feet of the facility's control structure and within 15 feet of an upstream or downstream dam embankment; and
- (3) abate any other condition on the property that the Department of Environmental Protection reasonably finds may adversely affect the facility's proper functioning.

(g) Disposal of materials from maintenance. A person that transports materials or debris resulting from the repair, cleaning, or maintenance of a stormwater management facility must dispose of the materials at a facility that has a valid permit to accept the type of materials or debris being deposited.

(h) Stop work orders.

(1) If a maintenance inspection reveals that the maintenance, repair, or restoration of a stormwater management facility is being preformed in a manner that is hazardous, creates a nuisance, or endangers human life or the property of others, or is otherwise being preformed in an unauthorized manner, the Director of Environmental Protection may, without advance warning, post the site with a stop work order directing that all maintenance, repair, or restoration activity cease immediately.

(2) The Director of Environmental Protection must provide written notice to the property owner, any designated representative of the property owner, or any

on-site person in charge of the work when a stop work order is issued. That notice must specify the extent to which work is stopped and the conditions under which work may resume.

(3) A person must not continue, or allow the continuance of, work on a stormwater management facility covered by a stop work order, except for work necessary to abate the nuisance, or hazardous conditions as identified by the Director.

(i) Emergency authority. If, after inspection, the Director of Environmental Protection finds that the condition of a privately maintained stormwater management facility presents an immediate danger to the public health or safety because of an unsafe condition, improper construction, or poor maintenance, the Director of Environmental Protection may take needed actions to protect the public and make the facility safe, including entering the property to make needed repairs. The County must assess any costs incurred as a result of the Director of Environmental Protection's actions against each owner of the facility. The County may collect the costs in the same manner as real property taxes are collected against the property where the facility is located. In addition, the County may seek reimbursement under any other method legally available to collect debts owed to the County.

Sec. 19-29. Stormwater management loan program.

(a) The Department of Environmental Protection must create a Stormwater Management Loan Program. The Program must provide direct loans to eligible homeowners' associations and other residential and associated nonresidential property owners to:

(1) make structural repairs to restore a stormwater management facility to acceptable design standards before the owner petitions the County to assume responsibility for future structural maintenance of the facility under Section 19-28(d), or

(2) cover the cost of abandoning a facility under Section 19-28(e).

(b) The fund for the Program consists of:

(1) all funds appropriated to the Program;

(2) all payments on any loan from the Program;

(3) all interest earned on funds in the Program; and

(4) all funds received from any other public or private entity.

(c) The County Executive must adopt regulations under method (2) to administer the Program. These regulations should include:

(1) lending standards and priorities;

(2) terms and conditions of loans;

(3) application procedures;

(4) procedures for loan applicants to request reconsideration of a decision to deny a loan or a decision on interest rates, terms, and conditions; and

(5) collection procedures in cases of nonpayment or default.

Sec. 19-30. Regulations.

(a) The Executive may adopt regulations under method (2) to implement this Article. Any regulation adopted under this Article must not conflict with or waive any provision of this Chapter, and must not be less restrictive than applicable requirements under state or federal law. The regulations must establish a fee schedule for monetary contributions to be paid to the County when the Department waives any on-site



stormwater management requirement. The regulations may also include design standards and other criteria or procedures necessary to implement this Article.

(b) The Executive may adopt plan review fees and inspection fees under method (3) to cover the cost of administering this Article.

#### Sec. 19-31. Exemptions.

The following development activities are exempt from the stormwater management requirements under this Article:

- (a) agricultural land management practices;
- (b) any addition or modification to an existing single family detached residential structure if the addition or modification does not disturb more than 5,000 square feet of land area;
- (c) any development not associated with the construction of a new residential or commercial building if the development does not disturb more than 5,000 square feet of land area; and
- (d) any land development activity that the Administration finds is subject to any State law that regulates stormwater management runoff.

#### Sec. 19-32. Transition for approved plans.

Each new development or redevelopment project must comply with this Article, except that a previously approved stormwater management concept plan remains valid if the Department issues a sediment control permit for the property covered by the plan before May 4, 2010.

#### Sec. 19-33. Agreements between the County and municipalities.

(a) The Executive must inform any incorporated municipality in the County that may regulate stormwater management of any proposed stormwater management facility, development or plan that could affect stormwater management in the municipality. The Board must inform any municipality of any functional master plan or preliminary plan of subdivision that may affect stormwater management in the municipality.

(b) The County and the Board may enter into cooperative agreements with any incorporated municipality in the County concerning any matter relating to stormwater management, including the planning, design, construction, and maintenance of stormwater management facilities and monetary contributions for stormwater management. The County and the Board may enter into those cooperative agreements to coordinate stormwater management activities with any municipality to avoid duplication of effort and to minimize the costs associated with an effective stormwater management program.

(c) If a municipality operates a stormwater management program that serves substantially the entire municipality and meets all applicable federal and state standards, the County must reimburse the municipality, subject to appropriation, for the cost of operating the program, limited to the amount the Director of Environmental Protection estimates the County would spend for that municipality if it were operating the program, by means of a cooperative agreement under subsection (b).

Sec. 19-34. Reserved.

Sec. 19-35. Water Quality Protection Charge.

(a) As authorized by state law (Maryland Code, Environment Art., § 4-204), the Director of Finance must annually impose and collect a Water Quality Protection Charge, as provided in this Section. The Director must collect the Charge in the same manner as County real property taxes, apply the same interest, penalties, and other remedies (including tax sale) if the Charge is not paid, and generally treat the Charge for collection and administration purposes as if it were a County real property tax. The Director may treat any unpaid Charge as a lien on the property to which the charge applies.

(b) The Charge must be imposed on each residential property and associated nonresidential property, as specified in regulations adopted by the Executive under Method (1) to administer this Section. The regulations may define different classes of real property, depending on the amount of impervious surface on the property, stormwater runoff from the property, and other relevant characteristics, for purposes of applying the Charge.

(c) The Council must set the rate or rates for the Charge by a resolution adopted each year after holding a public hearing with at least 15 days' notice. The resolution must be adopted no later than the date the Council approves the annual operating budget and presented to the Executive within 3 days after the Council adopts it. If the Executive disapproves a resolution adopted under this Section within 10 days after the Council adopts it and the Council readopts it by a vote of six Councilmembers, or if the Executive does not act within 10 days after the Council adopts it, the resolution takes effect. Unless the resolution specifies otherwise, the rates must take effect on the July 1 after the resolution is adopted.

(d) In the resolution adopted under subsection (c), the Council may set a different rate for each type of property defined by regulation. If different rates are set, the rates must generally reflect the relative amount of impervious surface on each type of property.

(e) The regulations may allow credits against and exemptions from the Charge:

(1) to the extent that credits and exemptions are not prohibited by state law; and

(2) if each credit or exemption will enhance water quality or otherwise promote the purposes of this Article.

(f) The Director must deposit funds raised by the Charge, and funds for this purpose from any other source, into a stormwater management fund. The fund must only be appropriated for:

(1) construction, operation, and maintenance of stormwater management facilities, and related expenses;

(2) enforcement and administration of this Article; and

(3) any other activity authorized by this Article or Maryland Code, Environment Art., § 4-204.

(g) This Charge does not apply to any property located in a municipality in the County which:

(1) operates a stormwater management program that meets all applicable federal, state, and County requirements and has received any necessary federal or state permit; and

(2) imposes a similar charge or other means of funding its stormwater management program in that municipality.

(h) A person that believes that the Director of Environmental Protection has mistakenly assigned a Charge to the person's property or computed the Charge incorrectly may apply to the Director of Environmental Protection in writing for a review of the Charge, and request an adjustment to correct any error, not later than September 30 of the year that payment of the Charge is due. An aggrieved property owner may appeal the Director's decision to the County Board of Appeals within 10 days after the Director issues the decision.

(i) A person that believes that the Director of Environmental Protection has incorrectly denied the person's request for a credit under subsection (b) may appeal the Director's decision to the County Board of Appeals within 10 days after the Director issues the decision.

(j) The Board of Appeals may hear and decide all appeals taken from a decision of the Director of Environmental Protection under this Section as provided in Article I of Chapter 2A.